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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,109	03/30/2004	Deepak Bhalchandra Salunke	B-5412 621815-6	6575

7590

08/02/2006

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EXAMINER

BADIO, BARBARA P

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/815,109	SALUNKE ET AL.	
	Examiner	Art Unit	
	Barbara P. Badio, Ph.D.	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,7 and 9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Final Office Action on the Merits

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 101

2. The provisional rejection of claims 2-6 under 35 USC 101 as claiming the same invention of claim 1 of copending Application No. 11/089,451 is made moot by the cancellation of the instant claims.
3. The provisional rejection of claim 1 under 35 USC 101 as claiming the same invention of claim 1 of copending Application No. 11/089,451 is withdrawn.
4. The provisional rejection of claims 8 and 10 on the ground of nonstatutory obviousness-type double patenting over claims of copending Application No. 11/089,451 is made moot by the cancellation of the instant claims.
5. The provisional rejection of claims 7 and 9 on the ground of nonstatutory obviousness-type double patenting over claims of copending Application No. 11/089,451 is withdrawn.

The withdrawal is based on the filing of a terminal disclaimer in copending Application No. 11/089,451.

6. The objection to claims 2-6 under 37 CFR 1.75 as being substantial duplicates of claim 1 is made moot by the cancellation of the instant claims.

7. The objection to claim 8 under 37 CFR 1.75 as being a substantial duplicate of claim 7 is made moot by the cancellation of the instant claim.

Claim Rejections - 35 USC § 112

8. The rejection of claim 11 under 35 USC 112, first paragraph is made moot by the cancellation of the instant claim.

9. The rejection of claims 2-6, 8 and 10-13 under 35 USC 112, second paragraph is made moot by the cancellation of the instant claims.

10. The rejection of claims 1 and 7 under 35 USC 112, second paragraph is withdrawn.

11. The rejection of claim 9 under 35 USC 112, second paragraph is maintained.

The instant claim was rejected for the recitation of the phrase "such as" which rendered it indefinite (see page 7 of the previous Office Action). Applicant did not address said rejection in the response dated June 12, 2006.

Claim Rejections - 35 USC § 102

- 12. The rejection of claims 2-6 under 3 USC 102(b) over Pandey et al. (Tetrahedron Letters, 1997) is made moot by the cancellation of the instant claims.**
- 13. The rejection of claim 1 under 3 USC 102(b) over Pandey et al. (Tetrahedron Letters, 1997) is withdrawn.**
- 14. The rejection of claims 2-6, 8 and 10 under 35 USC 102(a) over Salunke et al. (J. Med. Chem., 2/2004) is made moot by the cancellation of the instant claims.**
- 15. The rejection of claims 1, 7 and 9 under 35 USC 102(a) over Salunke et al. (J. Med. Chem., 2/2004) is maintained.**

According to applicant, the authors of the cited reference are the applicants of the instant application. Applicant's argument was considered but not persuasive for the following reason.

Contrary to applicant's assessment of the authorship of the cited reference and the instant application, the inventive entities of the two differ. It is noted that "Manoj Kumar" who is not listed as an inventor of the instant application coauthors the cited reference.

For this reason and those given in the previous Office Action, the rejection of claims 1, 7 and 9 under 35 USC 102(a) over Salunke et al. (J. Med. Chem., 2/2004) is maintained.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephone Inquiry

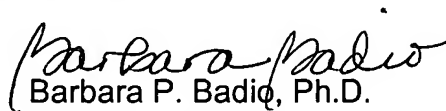
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara P. Badio, Ph.D. whose telephone number is 571-272-0609. The examiner can normally be reached on M-F from 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Barbara P. Badiq, Ph.D.
Primary Examiner
Art Unit 1617

BB
July 27, 2006